

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRED REEVES #241575,

Plaintiff,

Case No.: 06-CV-10326

VS.

DISTRICT JUDGE AVERN COHN
MAGISTRATE JUDGE STEVEN D. PEPE

DEBORAH WALLINGTON, DAVE SIVIK,
KAREN KEDRON, R. DAVIS, G. GRANDSEN,
SGT. HUGHES, LT. GOHEEN,

Defendants.
_____ /

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL(DKT. #116)

**ORDER TO U.S. MARSHALS SERVICE TO EFFECTUATE SERVICE
AND
ORDER DENYING DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE
RESPONSE TO PLAINTIFF'S MOTION TO COMPEL (DKT. #124)**

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. In his Complaint, Plaintiff alleges that Defendants were deliberately indifferent to his serious medical needs. On November 7, 2007, Plaintiff filed his motion to compel various discovery requests (Dkt. #116). Defendants did not file a response to Plaintiff's motion, but on November 29, 2007, filed a motion for an enlargement of time to file a response to the present motion (Dkt. #124).¹ On

¹ Defendants motion argued that a document exchange scheduled for November 30, 2007, would resolve the issues in Plaintiff's motion, and that "following record review at SMF . . . the Plaintiff's Motion to Compel Discovery will become moot and/or likely will be withdrawn" (Dkt. #124, p. 3). Plaintiff's December 3, 2007, statement of resolved and unresolved issues indicates the unresolved issues. A hearing on December 5, 2007, addressed those unresolved issues. Accordingly, no further briefing is required on Plaintiff's motion, and Defendants' motion for an extension of time to file a response is **DENIED** as moot.

December 5, 2007, a hearing was held on Plaintiff's motion at which all unresolved issues were addressed. For the reasons stated on the record and indicated below, Plaintiff's motion is

GRANTED.

1. On or before January 2, 2008, Defendants' counsel shall produce the documents used in the training of Defendants in the use of chemical agents on prisoners, and any measures taken to ensure that surrounding prisoners are removed or relocated due to medical reasons. Specifically, Defendants' counsel shall provide Plaintiff's counsel, to the fullest extent possible, all records pertaining to Deborah Wallington's 2004 and 2005 training, Karen Kedron's 2003 training and Dave Sivik's 1998, 1999 and 2000 training. If defense counsel is unable to locate these specific training manuals/documents, he shall work with the Standish Maximum Correctional Facility ("SMF") litigation coordinator to produce any surrogate materials that might duplicate such training materials. **All produced materials are subject to this Court's October 19, 2007, Protective Order (Dkt. #112).**
2. Defense counsel indicated that he had supplied all information requested in Plaintiff's interrogatories to the fullest extent possible. Accordingly, it is determined that no further responses to Plaintiff's interrogatories are required at this time.
3. At the hearing, Plaintiff inquired about service of the newly added defendants due to his lack of complete information concerning their identities, including first names and titles. Plaintiff indicates that all Defendants were employed by the MDOC at SMF as correctional officers and/or staff, at the time of the alleged event, and are believed to still be employed at SMF. It is customary for the litigation coordinator at MDOC institutions to accept service on behalf of defendants employed at that institution. Allowing the litigation coordinator at SMF to accept service avoids the need for this Court to order the production of the newly added defendants home addresses for service of process or for mailing other waiver of service forms. Plaintiff's counsel will coordinate with Deputy Clerk Pete Peltier to arrange for service of the newly named defendants through the U.S. Marshals Service serving the litigation coordinator at SMF using the identifying information counsel currently has in his possession. In the event the U.S. Marshals Service is unable to make service, a follow-up hearing will be conducted to address the issue of effectuating service on these newly added defendants. **By being provided a copy of this order, the U.S. Marshals Service will attempt service on**

the four new Defendants.

4. At the December 11, 2007, deposition of Plaintiff, defense counsel shall produce MDOC Policy Directive 04.04.135 (Exempt) entitled Custodial Transportation of Offenders. **Production of this document is subject to this Court's October 19, 2007, Protective Order (Dkt. #112).**
5. In the event defense counsel is unable to provide Plaintiff's counsel with all discovery materials at the December 11, 2007, deposition, defense counsel will provide such materials by mail or a comparable carrier at Plaintiff's counsel's expense for any reasonable copying and delivery charges.

The parties to this action may object to and seek review of this Order, but are required to file any objections within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

SO ORDERED.

Date: December 5, 2007
Flint, Michigan

s/Steven D. Pepe
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2007, I electronically filed the foregoing paper with the Clerk Court using the ECF system which will send electronic notification to the following: Michael D. Kennedy, Todd R. Mendel, Kevin M.Thom, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: not applicable.

s/ James P. Peltier
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